



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,459	09/18/2003	Yasuhide Yoshida	03573C/HG	6829
1933	7590	02/23/2005	EXAMINER	
FRISHAUF, HOLTZ, GOODMAN & CHICK, PC 767 THIRD AVENUE 25TH FLOOR NEW YORK, NY 10017-2023			CHEN, VIVIAN	
			ART UNIT	PAPER NUMBER
			1773	

DATE MAILED: 02/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/665,459

Applicant(s)

YOSHIDA ET AL.

Examiner

Vivian Chen

Art Unit

1773

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) 23 and 24 is/are allowed.
- 6) ☒ Claim(s) 1-12, 21, 22, 25-31 and 38-43 is/are rejected.
- 7) ☐ Claim(s) 13-20, 32-39 and 44-49 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. The objection to claims 22-24, 28, 31, 34, 37, 41, 43, 46, 49 under 37 CFR 1.75(c) has been withdrawn in view of Applicant's amendment filed 12/3/2004.

Claim Rejections - 35 USC § 112

2. The rejections under 35 U.S.C. 112, second paragraph, has been withdrawn in view of Applicant's amendment filed 12/3/2004.

Claim Rejections - 35 USC § 103

1. Claims 1-12, 21-22, 25-31, 38-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over JAPANESE PATENT APPLICATION 2001-353814 (hereinafter JP '814).

JP '814 discloses a film comprising a first polyester layer and a second polyester layer usable in non-stretched form, and metal sheets coated thereby, wherein the first polyester layer contains thermoplastic polyester blended with 1-25% of a polyolefin ionomer modified with 1-20 mol% of carboxylic acid groups, wherein the ionomer is present in the polyester in particle sizes of 5 microns and less; wherein the polyester comprises polyethylene terephthalate / isophthalate copolyesters, wherein isophthalate units present in typical amounts up to 20 mol% and diol comonomers such as butanediol in typical amounts of up to 20 mol%. The film can be extrusion coated onto a metal sheet, wherein the polyester film optionally contains conventional additives such as antioxidants and titanium oxide pigment. A film comprising the first polyester layer has

Art Unit: 1773

a typical thickness of 35-40 microns, and the second film layer has a typical thickness of 6 microns. The metal substrate is optionally preheated prior to application of a preformed adhesive film layer or application of a coextruded film comprising the adhesive layer and the polyester layer. (entire document, especially paragraphs 0009, 0017-0023, 0031, 0036-0038, 0043-0044)

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate carboxyl-modified polyolefin into the first film layer of JP '814 in order to improve the impact resistance. It also would have been obvious to use effective amounts of performance-enhancing additives (claims 6-8, 12). It is conventional in the art to use T-dies (claim 21-22) to extrude polyester films. Since the prior art film can be used in non-stretched form, the Examiner has reason to believe that first polyester layer disclosed in JP '814 has plane orientation coefficient values comparable to those recited in claim 27, therefore the Examiner has basis for shifting the burden of proof to applicant as in *In re Fitzgerald et al.*, 205 USPQ 594. One of ordinary skill in the art would have selected the melt extrusion temperature of the adhesive layer (claim 38-43) depending on the specific rheological properties desired for specific coating or laminating equipment and polymer compositions.

2. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over # as applied to claims 1, 25 above, and further in view of OKAMURA ET AL (US 5,585,177).

OKAMURA ET AL discloses that it is well known in the art to use chromate-treated metal sheets as recited in claim 26 as substrates for polymeric film coated metal laminates in order to improve interlayer adhesion. (line 40, col. 6 to line 20, col. 7)

Art Unit: 1773

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to use chromate-treated metal sheets in the laminates of YABE ET AL in order to improve adhesion between the polyester film and the metal substrate.

Response to Arguments

3. The rejection under 35 U.S.C. 103(a) based on YABE ET AL have been withdrawn in view of Applicant's arguments filed 12/3/2004, in view of the showing in the specification in regard to criticality and improved properties from the recited particle size and content, and carboxylic acid group content of the modified polyolefin, etc.

Allowable Subject Matter

4. Claims 23-24 are allowed.

5. Claims 13-20, 32-39, 44-49 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

6. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to disclose multilayer films comprising the recited polyester layer containing a carboxylic acid-modified polyolefin having a specified particle size and further comprising a carboxylic acid-modified polyolefin layer (claims 13, 17, 23, 24), in view of

Art Unit: 1773

the showing in the specification in regard to criticality and improved properties from the recited particle size and content, and carboxylic acid group content of the modified polyolefin, etc.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Art Unit: 1773

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vivian Chen whose telephone number is (571) 272-1506. The examiner can normally be reached on Monday through Thursday from 8:30 AM to 6 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached on (571) 272-1516. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

The General Information telephone number for Technology Center 1700 is (571) 272-1700.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

February 18, 2004



Vivian Chen
Primary Examiner
Art Unit 1773